

HOUSE BILL REPORT

HB 2323

As Reported by House Committee On: Finance

Title: An act relating to sales and use tax exemption of the nonhighway use of propane by farmers.

Brief Description: Concerning a sales and use tax exemption of the nonhighway use of propane by farmers.

Sponsors: Representatives Grant-Herriot, Kretz, Blake, McCune, Warnick, Jacks, Van De Wege, Ericks, Schmick, Takko, Kelley, Short, Ormsby, Kenney and Santos.

Brief History:

Committee Activity:

Finance: 4/2/09, 4/3/09 [DPS].

Brief Summary of Substitute Bill

- Exempts 50 percent of the selling price of propane fuel used by farmers for non-highway farm activities from the sales and use tax.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

Staff: Joseph Archuleta (786-7192)

Background:

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and some services. If retail sales taxes were not collected when the property or services were acquired by the user, then use taxes apply to the value of most tangible personal property and some services when used in this state. Use tax rates are the same as retail sales tax rates. The state

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tax rate is 6.5 percent. The state tax is deposited into the State General Fund. Depending on the location, local tax rates vary from .5 percent to 2.4 percent. The average local tax rate is 2 percent, for an average combined state and local tax rate of 8.5 percent.

Propane and natural gas sold to farmers to heat structures used to house chickens are exempt from sales and use tax.

Diesel and aircraft fuel used by farmers for non-highway farm activities is exempt from sales and use tax. The exemption also covers diesel and aircraft fuel used for soil preparation services, crop cultivation services, and crop harvesting services. The exemption does not cover fuel used for home heating. The exemption does not include propane fuel.

Summary of Substitute Bill:

Sections one and two of the bill exempt 50 percent of the selling price of propane fuel used by farmers for non-highway farm activities from the sales and use tax. The exemption does not cover fuel used for home heating. The exemption is in the form of a refund that the buyer must apply for directly to the Department of Revenue within three months from the purchase of the propane fuel.

Sections three and four of the bill create a full sales and use tax exemption of propane fuel used by farmers for non-highway farm activities. The exemption does not cover fuel used for home heating.

As of July 1, 2011, if the refunds for this exemption for the prior three fiscal years cost less than the final fiscal note prepared for this bill, then sections one and two will expire on January 1, 2012, and trigger sections three and four of this bill to take effect on January 1, 2012.

However, if on July 1, 2011 the refunds for sections one and two for the prior three fiscal years cost in excess of the final fiscal note prepared for this bill, then the entire act will expire on January 1, 2012.

Substitute Bill Compared to Original Bill:

The substitute bill eliminates the full sales and use exemption provisions in the bill and eliminates the emergency clause provision.

The substitute bill caps the exemption amount per year at \$1 million and expires the act on July 1, 2015.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on August 1, 2009.

Staff Summary of Public Testimony:

(In support) The state already gives farmers an exemption for the use of diesel and aircraft fuel, and this bill would allow this exemption to be applied to the use of propane. Propane is a clean, alternative fuel and it makes sense to extend favorable tax treatment. This bill equalizes the fuel tax exemptions for farmers, and the agricultural community believes that the actual fiscal impact to the state will be much lower than estimated in the fiscal note.

(With concerns) The Washington State Farm Bureau appreciates the intent of the bill; however, with budget cuts to agencies like the Department of Agriculture, the Legislature should be asking itself if this is the right decision. The Legislature is only taking funds from one place that benefits some farmers, and giving the money to help other farmers.

The Department of Revenue has some concerns about the fiscal note mechanism used in the bill to evaluate this bill in 2011. It is recommended that the Legislature instead replace the fiscal note with a specific dollar amount.

(Opposed) None.

Persons Testifying: (In support) Representative Grant-Herriot, prime sponsor; Mel Sorensen, Northwest Propane Gas Association; Jim Halstrom, Washington State Horticultural Association; and Chris Cheney, Washington Dairy Federation and Hop Growers.

(With concerns) Patrick Connor, Washington State Farm Bureau; and Drew Shirk, Department of Revenue.

Persons Signed In To Testify But Not Testifying: None.